

NEW YORK TIMES

31 OCT 1973

Knopf Sues Over C.I.A. Censoring of Book

By GEORGE GENT

In what their lawyers called the second Pentagon papers case, the authors and publisher of a forthcoming book about the Central Intelligence Agency filed suit in Federal Court yesterday to enjoin the Government from deleting roughly 10 per cent of the book's material and to halt all interference with its publication.

The suit was filed on behalf of Alfred A. Knopf, Inc., publisher of a forthcoming book, which has the working title of "The C.I.A. and the Cult of Intelligence," and the co-authors, Victor L. Marchetti, a former executive assistant to the C.I.A.'s deputy director, and John D. Marks, a former State Department employee. A previous court ruling on the case in March had led to a C.I.A. review of the unsubmitted manuscript.

Named as defendants in new action were William Colby, director of the C.I.A., and Secretary of State Kissinger, whose department employed Mr. Marks.

This is only the second time in the country's history—the first was in the Pentagon papers suit—that legal action has been brought against the Federal Government to overturn an injunction against publication of material the Government wants to keep classified.

Prior Restraints Cited

The Government's action, the brief says, violates the Constitution's First and Fifth Amendments by prohibiting the plaintiffs from delivering an uncensored version of the manuscript to the publisher; a "forbidden prior restraint upon freedom of the press," in that publication of the censored material would not "surely result in direct, immediate and irreparable injury to the nation or its people. The brief goes on to say, therefore, that the purported secrecy agreements signed by both Mr. Marchetti and Mr. Marks were unconstitutional prior restraints on the freedoms of speech and the press.

Floyd Abrams, who was one of the lawyers representing The New York Times in the Pentagon papers case and who now represents

Knopf, said previous court rulings on the case in question had been concerned with Mr. Marchetti and his alleged obligations under the secrecy provision he signed when he joined the C.I.A. in 1955.

"What is new here is that Knopf has entered the case under the freedom of the press statutes," Mr. Abrams said.

The brief notes that on March 29, 1972, Knopf and Mr. Marchetti entered into a contract that stipulated that Mr. Marchetti would write and Knopf publish a book about the policies and practices of the C.I.A. that would provide the American people with "vital and timely" information about the secret agency. Subsequently, Mr. Marchetti and Mr. Marks agreed that they would write the book jointly.

Last March, a permanent injunction was issued in Federal Court in Alexandria, Va., forbidding Mr. Marchetti's "further breaching" the terms and conditions of the C.I.A.'s secrecy agreement, which he signed on joining the agency

in 1955, and from disclosing any classified information relating to intelligence activities, sources and methods that had not previously been placed in the public domain by prior disclosure by the Government. The court further ruled that all material relating to the agency be submitted to the C.I.A. for examination 30 days in advance of any publication.

In compliance with the order, Mr. Marchetti and Mr. Marks submitted to the C.I.A. on Aug. 27, 1973, a typewritten manuscript consisting of 517 pages. On Sept. 26, the C.I.A.'s acting general counsel delivered to the authors' lawyers a 19-page document specifying 339 deletions, amounting to between 15 and 20 per cent of the book, and asserted that the manuscript could not be released without the deletions of classified information.

The censored version of the manuscript was submitted to Knopf on that same date by the authors. The publisher has not yet seen an uncensored copy.

Subsequently meetings by

Mr. Marchetti and his lawyers with C.I.A. officials brought out the information that some of the material censored by the agency had been acquired by Mr. Marchetti after his employment with the C.I.A. or was already in the public domain.

C.I.A. Restores Portions

The C.I.A. agreed and, on Oct. 15, the agency released 114 of the original 339 deletions for publication, leaving still censored 225 portions, or roughly 10 per cent of the manuscript.

By their act of censorship," the suit alleges, "defendants have substantially impaired and invaded the right of plaintiffs to publish the book 'The C.I.A. and the Cult of Intelligence,' and have deprived the public of the right to receive vital information regarding the conduct of the Government."

In seeking redress, the suit asks that the 225 deletions be restored, that the authors be permitted to submit, and Knopf to publish and sell, the uncensored manuscript, that all Governmental interference with the publication cease, and that the secrecy agreements signed by Mr. Marchetti and Mr. Marks be declared "null and void."

In related actions, the suit asks that Mr. Colby and Secretary of State Kissinger provide, within 15 days, all data and documents relating to the decision to censor the 225 portions of the book, the security classifications of each item censored, the manner in which the decision to censor was made and the names and addresses of all those involved in the decision.

"An Incredible Thing"

Robert Bernstein, president of Knopf, said at a news conference in his office that "it was an incredible thing to receive from the Government a censored manuscript with the deleted portions actually cut out of the book with scissors." (The Knopf suit alleges that all of the deleted material had been placed in public domain.)

"I am seriously thinking of publishing the book with all the deleted material appearing as white spaces," he said.

Mr. Marchetti, who was present at the conference with Mr. Marks, said the suit sought to uncover just what the agency considers classified material. "Much of it is silly," he said yesterday. "One of the items originally deleted and then restored had to do with a training installation in Virginia called The Farm."

Mr. Marchetti and Mr. Marks are represented in the suit by Melvin L. Wulf and John H. F. Shattuck of the American Civil Liberties Union Foundation.

A spokesman for the C.I.A. said late yesterday that there would be no comment at this time because the case was before the courts. A State Department spokesman said, "We know nothing about the suit here."